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RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION

Comments submitted by the International Labour Office (ILO)

General update on ILO activities to promote non-discrimination

1. The International Labour Office has continued its work for the elimination of discrimination in employment and occupation on a number of grounds, including those of race, colour, national extraction and social origin. This is based on the ILO Constitution as well as on the Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and other ILO standards and instruments, including the ILO Declaration of Fundamental Rights and Principles at Work and its Follow-up. The latter explicitly mentions "the elimination of discrimination in respect of employment and occupation", which covers grounds including race, as one of the fundamental principles and rights at work. The present comments provide a brief update to information presented to previous sessions of the Commission on Human Rights, while drawing special attention to the forthcoming World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in the second part.

2. Being considered one of the eight fundamental conventions of the International Labour Organization, Convention No. 111 has been among the targets of the ratification campaign instituted by the Director-General in 1995 and a number of new ratifications have been received pursuant to that campaign. As of February 2001, 146 States have ratified the Convention. Due to the growing number of ratifications, the related supervisory activities of the Office are on the increase as well. The ILO Committee of Experts on the Application of Conventions and Recommendations in 2000 examined a number of reports on Convention No. 111 from ratifying

countries, and the observations it has made are contained in its annual report published in March 2001. In its observations, this Committee has drawn attention to the lack of protection, denial of rights and suffering of members of minority groups, migrant workers, and indigenous and tribal peoples in a number of countries. In some countries, it has noted an apparent rise in racism, intolerance and xenophobia. It has pointed to the effects of multiple and compounded discrimination against women on grounds of race and sex, and the negative economic consequences of such discrimination. It has encouraged Governments to adopt comprehensive strategies and mechanisms to eradicate direct and indirect discrimination and to promote equality of opportunity and treatment in employment and occupation. At the same time, it has welcomed the strengthening of laws aimed at prohibiting and punishing racial discrimination in the workplace and the taking of various measures to improve access to vocational training and employment for men and women who have suffered discrimination and exclusion from the labour market. It has requested Governments to make assessments, based on indicators and disaggregated statistical data, of the impact of their policies, measures and other activities on the distribution of men and women of particular groups in the various sectors of economic activity, at different occupational and seniority levels, and in respect of access to education, occupational guidance, vocational training and employment. The Committee has emphasized the link between racism in the society and in the labour market and the importance of Governments' taking steps to promote tolerance, respect and understanding among all groups in society.

3. The International Labour Office continues to provide technical assistance and advisory services to member States which wish to ratify this Convention or to apply it more fully. It has, for instance, provided technical advice to a number of countries, assisted in the drafting of laws on non-discrimination and provided education and training through the holding of national seminars in a number of countries, including Brazil, China, Estonia and Uganda. A subregional training seminar for judges on discrimination issues will be held for Eastern Africa in May 2001. A manual on discrimination at work, which will highlight the legal requirements as well as provide strategic guidance for the practical application of Convention No. 111, is under preparation. ILO is undertaking research in several countries on the causes and manifestations of racial, ethnic and gender discrimination in the workplace. It is also reviewing documentation on the impact and effectiveness of equality policies at the national and enterprise level.

Migrant workers

4. ILO has a substantive programme on international migration, including provision of policy advice and technical assistance to Governments, activities to enhance protection of migrants and discourage discrimination, and extensive research and documentation, notably the on-line International Labour Migration Database. This work is based on the relevant ILO Conventions, which are for now the only international instruments in force on this subject.

5. Over the past year, pioneering work in documenting and identifying remedies to discrimination in employment against migrant and ethnic minority workers was expanded. New research efforts to identify and disseminate good practice remedies to discrimination have been initiated, including a joint project with the Council of Europe Expert Working Group on Integration.

6. With ILO support, significant steps have been taken by several countries, notably Costa Rica, Indonesia, the Republic of Korea, Spain, Sweden and Tajikistan, to adopt policies or enact new legislation based on ILO principles and guidelines for the protection and welfare of migrant workers. ILO cooperated extensively with the joint United Nations inter-agency International Migration Policy Programme (IMP) in providing training to senior government migration officials in Central Asia and the Caucasus, Eastern Europe and Southern Africa, particularly regarding issues of the protection of the human and labour rights of migrant workers. In order to promote recognition of contributions by migrant workers to their host and home countries, the Office helped initiate a recommendation adopted last year by the Commission which led to the proclamation by the United Nations General Assembly of 18 December as International Migrants Day.

Indigenous and tribal peoples

7. ILO is responsible for the only two international conventions relating directly to these peoples, the Indigenous and Tribal Peoples Convention, 1989 (No. 169) and the earlier Convention No. 107. Much of the supervisory work carried out by ILO on them relates to the effects of racial discrimination, or exclusion from the same opportunities for development as are enjoyed by the rest of the national population. The work of ILO in this area, taking Convention No. 169 as a basis, is to provide equality of opportunity and treatment in all spheres of life, while not sacrificing the ability of these peoples to retain their own ways of life, cultures, etc.

8. It is worth noting that a number of representations have been filed in recent years on the application of Convention No. 169, for the first time. Representations are forms of complaint provided for in the ILO Constitution for allegations that ratified Conventions are not being implemented. While it is difficult to characterize generally the problems raised in these representations, they tend to indicate a lack of effective involvement of these peoples in decisions taken at the national level which affect them, particularly in relation to land rights and development issues.

9. In addition to its supervisory work, ILO carries out a good deal of technical assistance aimed at improving the living and working conditions of indigenous and tribal peoples around the world. Traditionally, most ILO work on this subject has been carried out in Latin America, but in recent years it has expanded into both Africa and Asia. The DANIDA-funded Project to Promote ILO Policy on Indigenous and Tribal Peoples aims to promote the application of the principles of Convention No. 169 and works at the policy level, primarily in south and south-east Asia and Africa. The ILO-INDISCO Programme aims to promote self-reliance of indigenous and tribal peoples through the establishment of cooperatives and other self-help groups. There are also a number of ILO technical cooperation programmes and projects that do not take indigenous and tribal peoples as their specific focus, but necessarily address issues that are of particular relevance to indigenous and tribal peoples. These include the In-focus Programme on Child Labour (IPEC), in addition to a number of other activities, including those undertaken by the Employment Intensive Investment Branch that have addressed, in particular, marginalized sectors of society, including indigenous and tribal peoples, in a number of countries in Africa and Asia.

The World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance

10. As set out in the Director-General's report on decent work, the primary goal of the ILO today is to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and human dignity. The promotion of this goal includes ensuring that all men and women workers are able to engage in productive activities free from hindrance of racial bias or discriminatory treatment. Thus, the objectives proclaimed for the World Conference fully correspond to the mandate and activities of ILO as they relate to the world of work. A world free from racism and xenophobia cannot be realized without specifically addressing the situation in the workplace, which is of fundamental importance for the prosperity, development and dignity of the individual.

11. ILO has taken an active part in the preparatory process for the World Conference and will continue to do so. The Office was represented at the regional preparatory conferences and expert seminars convened in the context of the preparations for the World Conference. Written background material was provided to the first session of the Preparatory Committee. Several parts of the Office are carrying out studies and projects in the field of racial discrimination, some of which are mentioned above. ILO welcomes the fact that issues relating to racial discrimination and xenophobia at work have been taken up by the regional preparatory conferences and seminars.

12. Drawing on its long experience in promoting the principle of non-discrimination in employment and occupation, ILO cannot but conclude that discrimination in the workplace on the grounds of race, colour, ethnic or social origin as well as nationality continues to occur worldwide. Such discrimination seriously affects the full enjoyment of the right to decent work, including access to employment, just and favourable conditions of work, social protection and the right to education, including vocational training and guidance. Moreover, the gender implications of racial discrimination at work, in particular multiple discrimination suffered by women, must be recognized and adequately addressed. Beyond the level of the individual, xenophobic and discriminatory policies and measures in employment can also lead to ethnic tensions in society, in some cases even to open conflict. Comprehensive strategies to eliminate racism in all its forms thus need to take into account fundamental rights and principles at work and the need to ensure their full and effective implementation, as well as the social and economic causes and effects of such discrimination.

13. ILO Convention No. 111 on discrimination in employment and occupation is one of the key international instruments for combating racism, racial discrimination, xenophobia and related intolerance. The Programme of Action of the 1978 World Conference to Combat Racism specifically stated that action taken at the national level should include ratification of ILO Convention No. 111, as soon as possible. The Programme of Action of the 1983 World Conference reiterated this call and appealed to States which had not yet done so to consider ratifying the Convention, as soon as possible. The forthcoming World Conference should therefore build on the achievements of the previous World Conferences and call for early ratification and application of Convention No. 111, as an integral part and objective of the follow-up to the World Conference. As of today, 146 countries have ratified Convention No. 111.

14. Migrant workers, minority workers and indigenous and tribal peoples are among those particularly vulnerable to discrimination at work and in education. Their vulnerability to racial discrimination relates in particular to issues such as access to training, including vocational training and guidance, education, lack of participation and consultation in decision-making and other aspects of social, political and economic life. Exclusion and marginalization are also caused or aggravated by linguistic and cultural differences. Racial discrimination and xenophobia are among the root causes of the often disproportionately high rate of unemployment among members of these groups. Special measures, including the formulation and implementation of programmes and policies, which are firmly based on relevant international standards are necessary to address the situation of these affected groups. In this context, the World Conference should call upon States to ratify and apply the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the ILO Migrant Workers Convention (Supplementary Provisions), 1975 (No. 143), as well as the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

15. Effectively combating racism, racial discrimination, xenophobia and related intolerance requires joint efforts by Governments, workers' and employers' organizations, and non-governmental organizations. Moreover, those directly affected by racially discriminatory treatment and practices, including in particular minorities, migrant workers, women and indigenous and tribal peoples, need to have a voice in the process of eliminating racism in all its forms. Based on its tripartite structure and tradition, ILO has long experience in promoting and engaging in social dialogue as one tool to realize its objectives. States parties to Convention No. 111 have the obligation to seek the cooperation of employers' and workers' organizations and other appropriate bodies in promoting the acceptance and observance of their national policy for achieving equality of opportunity and treatment in respect of employment and occupation. Awareness raising, non-discrimination training and education at all levels, in particular for those holding key positions in labour market institutions, are essential elements of any strategy to combat racism, racial discrimination, xenophobia and related intolerance in employment.

16. Efforts for the progressive elimination of child labour, giving priority to its worst forms, and efforts to condemn and effectively combat racism and related intolerance against children are fully complementary. Child labour is to a large extent caused by poverty, and poverty invariably afflicts victims of racism and intolerance more than others, mostly as the result of their inadequate access to fixed assets, such as land or capital, or reduced opportunities for income generation. On the other hand, child labour, particularly in its worst forms, perpetuates poverty and inequality along racial lines by disproportionately denying children from affected groups the opportunity to develop the human capabilities needed in productive life and to benefit from economic growth. Moreover, children who are effectively denied education because of racism and related intolerance are also amongst the most vulnerable to child labour. Poverty and lack of educational and occupational opportunities create a breeding ground for some of the worst forms of child labour, such as the sale and trafficking of children for sexual or labour exploitation, the victims of which disproportionately originate from families particularly affected by racism and related intolerance. In order to address the racial implications of child labour, it is crucial that States progressively realize the right of the child to education on the basis of equality as a key strategy to prevent child labour. They should also ensure, without discrimination as to race, colour, and ethnic or social origin, that the laws governing the minimum age for admission

to employment or work apply to and are enforced equally for all children, and that children withdrawn from the worst forms of child labour are protected and reintegrated without such discrimination. The World Conference should call upon States to ratify and apply the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and the ILO Minimum Age Convention, 1973 (No. 138).

17. Mechanisms, procedures and institutions at the national level to address cases of racism, racial discrimination, xenophobia and related intolerance are crucial, in particular in the field of employment. Effective remedies against racially discriminatory treatment, including as regards the hiring process, promotion, working conditions and social benefits, are necessary to provide justice and redress for victims. At the same time, they contribute to preventing racism and racial discrimination in the future. Remedies may be judicial or non-judicial, as is the case with national human rights institutions, specialized bodies to monitor non-discrimination, and ombudsmen. Such bodies and institutions should be mandated to take practical measures to foster understanding and acceptance of the principles of non-discrimination; to receive, examine and investigate complaints; to undertake conciliation efforts; and to adopt opinions or decisions aimed at the correction of discriminatory practices.

18. The overall success of the World Conference will depend on whether it is able to create a momentum that leads to a measurable and sustainable improvement of the situation of those affected, including working men and women. ILO therefore believes that the Conference should adopt a follow-up which integrates and reinforces activities in the field of eliminating racism, racial discrimination, xenophobia and related intolerance at all levels. The global report on non-discrimination in employment and occupation to be issued in 2003 in follow-up to the ILO Declaration on Fundamental Rights and Principles at Work will be among the ILO contributions to this process.